

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Mar 17, 2022

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

LETICIA RODRIGUEZ (7),

Defendant.

No. 4:21-CR-6028-MKD-7

CASE MANAGEMENT ORDER

The Court enters the following Case Management Order, which sets forth the hearings and requirements the parties are to observe in this matter. To the extent this Order conflicts with any previously-entered Orders in this matter, this Order shall govern. All counsel are expected to carefully read and abide by this Order. The Court will grant relief from the requirements in this Order only upon motion and good cause shown.

IT IS HEREBY ORDERED:

- 1. Local Criminal Rules.** Counsel shall comply with the Eastern District of Washington Local Criminal Rules of Procedure (LCrR), except

1 where specifically modified below or by subsequent Order.

2 **2. Emailing the Court.** Where this Order requires counsel to email
3 documents to the Court, all documents shall be attached to the email in
4 Microsoft Word (.doc/.docx) or rich-text (.rtf) format. The subject line of
5 each email shall be formatted as follows:

6 **[Case No.]; [Case Name]; [Title of Document]**

7 (e.g.: 13-cr-9999-MKD; USA v. Doe; Trial Brief)

8 **3. Discovery**

9 **A.** All discovery documents must be Bates-stamped with a unique
10 identifier and must be produced digitally in a text-searchable
11 format. The Court will grant relief from this requirement only
12 in exceptional circumstances, upon motion and good cause
13 shown.

14 **B.** Production of discovery shall be governed by Local Criminal
15 Rule 16. *See* LCrR 16.

16 **C.** The Court presumes a request for discovery and disclosure
17 under Federal Rules of Evidence 404(b), 608(b), and 609,
18 *Brady v. Maryland*, 373 U.S. 83 (1963), *Giglio v. United States*,
19 405 U.S. 150 (1972), *United States v. Henthorn*, 931 F.2d 29
20 (9th Cir. 1991), and their progeny, and as such these items are

1 ordered disclosed by the deadline set forth in Local Criminal
2 Rule 16.

3 **D.** At arraignment or within 14 days thereafter, the United States is
4 required to disclose evidence relating to Defendant's guilt or
5 punishment that might reasonably be considered favorable to
6 the Defendant. *See* LCrR 16(a)(6); *see also Brady*, 373 U.S.
7 83; *United States v. Agurs*, 427 U.S. 97 (1976); Fed. R. Crim.
8 P. 5(f).¹ This is a continuing duty for newly discovered
9 evidence. LCrR 16(c); *see also* ECF No. 184.

10 **E.** Pursuant to Federal Rule of Criminal Procedure 16(d)(2),
11 failure to comply may result in an order permitting the
12 discovery or inspection; granting a continuance; or any other
13 order that is just under the circumstances (including contempt,
14 sanctions, referral to a disciplinary authority, dismissal of
15 charges, exclusion of evidence or witnesses, and adverse jury
16 instructions).

17
18 ¹ Nothing in this requirement enlarges or diminishes the United States' obligation
19 to disclose information and evidence to the Defendant under *Brady* and its
20 progeny.

1 **4. Expert-Witness Summaries**

2 **A.** When each party produces to opposing counsel summaries of
3 its expert-witness testimony for which disclosure is required
4 under Federal Rule of Criminal Procedure 16 and Local
5 Criminal Rule 16, counsel shall also email an electronic copy of
6 the summary to the Court at DimkeOrders@waed.uscourts.gov.

7 **B.** All summaries of expert witness testimony must conform to
8 Federal Rule of Criminal Procedure 16, Local Criminal Rule
9 16, and applicable case law interpreting those Rules. The Court
10 will not permit an expert witness to testify about opinions
11 which are not explicitly expressed in that expert's summary.
12 *See, e.g., United States v. W.R. Grace*, 526 F.3d 499 (9th Cir.
13 2008).

14 **5. CM/ECF Technical Assistance.** Parties requiring technical
15 assistance concerning the CM/ECF system, such as the procedures for filing
16 non-scannable exhibits, shall consult the District's "Electronic How To"
17 page (<https://www.waed.uscourts.gov/electronic-how>) or contact the
18 CM/ECF Help Desk by phone at (866) 236-5100 or (509) 458-3410 or by
19 email at ecfinfo@waed.uscourts.gov. Inquiries requesting technical
20

1 assistance concerning the CM/ECF system shall not be directed to the
2 Judge's chambers.

3 **6. Motions Practice**

4 **A. *Generally.*** All motions shall either be: a) noted for hearing
5 without oral argument fourteen (14) days after filing, or b)
6 noted for hearing with oral argument at the pretrial conference
7 pursuant to Local Criminal Rule 12(c). Responses and replies
8 to motions must be filed in accordance with Local Criminal
9 Rule 45 and 47, which incorporate the requirements of Local
10 Rule 7.1.

11 **B. *Expedited Hearing.*** Any party seeking an expedited hearing
12 on a time-sensitive matter must comply with Local Criminal
13 Rule 12(c)(3).

14 **C.** If a case has more than one defendant, the Court will construe
15 any motion, including motions to continue, as applying to *all*
16 defendants, unless that defendant indicates they do not wish to
17 be joined in the motion. **Defendants thus do not need to file**
18 **motions to join. Any Defendant wishing to opt-out of a**
19 **motion shall file a notice so stating within seven days of the**
20 **filing of the motion.**

1 **D. *Sealed Documents.*** Any and all sealed documents shall be
2 filed by the parties under the sealed event as a sealed document.
3 The parties are not required to file a separate motion to seal a
4 document. The parties shall file any objections to a sealed
5 document by no later than five days after the filing of the sealed
6 document. The Court will thereafter review the sealed
7 document and any objections filed to determine whether the
8 document should be unsealed. Any party filing a sealed
9 document shall email DimkeOrders@waed.uscourts.gov to
10 inform the Court of the filing. The email shall note the ECF
11 number of the sealed document and the general nature of the
12 document.

13 **7. Witness Testimony.** At any hearing, including trial, in which witness
14 testimony is given, the witness must testify in Court. Absent exceptional
15 circumstances, a testifying witness may not appear by telephone or video
16 conference.

17 **8. Trial Continuances**

18 **A. *Motion Deadline.*** All motions to continue the trial must be
19 heard before or at the pretrial conference. **Any motion to**
20 **continue trial made after the pretrial conference has**

**occurred will not be granted absent exceptional
circumstances.**

B. *Statement of Reasons.* If the Defendant seeks a continuance, a Speedy Trial Waiver and Statement of Reasons in support of the motion to continue must be filed contemporaneously with the motion.² The Statement of Reasons must 1) be signed by the Defendant, 2) be signed by a certified translator, if applicable, and 3) indicate the latest date upon which Defendant is willing to proceed to trial.

C. *Procedure.* Before filing a motion to continue, counsel shall first contact the Courtroom Deputy at (509) 458-5252 to obtain new pretrial conference and trial dates consistent with the length of the requested trial continuance. Thereafter, counsel shall confer with opposing counsel regarding case management

² The Court's Speedy Trial Waiver and Statement of Reasons form can be found at the following link:

<https://www.waed.uscourts.gov/sites/default/files/forms/Speedy%20Trial%20Waiver%20MKD.docx>

1 deadlines³ consistent with the new pretrial conference and trial
2 date. **All motions to continue must include proposed case**
3 **management deadlines (either joint or individual) to ensure**
4 **the to-be-imposed deadlines are best suited to this case.**

5 **9. Pretrial Conference**

6 **A.** The Pretrial Conference is **SET** for **May 5, 2022**, at **1:30 PM**
7 in **RICHLAND**. At this hearing, the Court will hear **ALL**
8 pretrial motions that are noted for oral argument.

9 **B.** All pretrial conferences are scheduled to last no more than
10 **thirty (30) minutes**, with each side allotted **fifteen (15)**
11 **minutes** to present their own motions and resist motions by
12 opposing counsel. If any party anticipates requiring longer than
13 fifteen minutes, that party must notify the Courtroom Deputy at
14 least seven (7) days prior to the hearing. **Any party who fails**
15 **to provide this notice will be limited to fifteen (15) minutes.**

16
17 ³ A form with the Court's standard case management deadlines can be found at the
18 following link:

19 [https://www.waed.uscourts.gov/sites/default/files/forms/Proposed%20Case%20Ma](https://www.waed.uscourts.gov/sites/default/files/forms/Proposed%20Case%20Management%20Deadlines%20Form%20-%20MKD.pdf)
20 [nagement%20Deadlines%20Form%20-%20MKD.pdf](https://www.waed.uscourts.gov/sites/default/files/forms/Proposed%20Case%20Management%20Deadlines%20Form%20-%20MKD.pdf)

1 **C.** If a motion is to be heard with oral argument, and a party plans
2 to call witnesses or present exhibits, that party must file an
3 exhibit and/or witness list by no later than **72 hours** before the
4 hearing on the motion.

5 **D.** If a party intends to use a laptop, thumb drive, or DVD or CD
6 for presentation of documents, or audio or video recordings,
7 that party must contact the Courtroom Deputy at least **one week**
8 prior to the hearing and confirm the compatibility of the
9 technology and equipment.

10 **E.** If a party intends to use a demonstrative exhibit, such as a
11 PowerPoint presentation, it must be submitted to the Court and
12 all opposing parties at least **24 hours** prior to its intended use.

13 **10. Exhibit Lists**

14 **A.** On **May 17, 2022**, after conferring with counsel at the pretrial
15 conference each party shall file a list of exhibits the party
16 intends to introduce at trial. Each party shall also email copies
17 of their exhibit list to the Court at

18 DimkeOrders@waed.uscourts.gov.

The parties shall provide their exhibit list in the following format:

Ex. #	Admitted	Description
1		Photograph of items seized
2		Aerial video surveillance from 1/1/2011. Start Time: 01:03:23 End Time: 01:09:54

Exhibit lists shall include a unique exhibit number and a brief description of the exhibit. For all exhibits consisting of an audio or video file, the exhibit list must designate the precise beginning and ending time indexes of the portion of the file the party intends to use at trial.

B. The United States shall consecutively number their exhibits from **1 to 999**. In single-defendant cases, Defendant shall consecutively number exhibits from **1000 to 1999**; in multi-defendant cases, Defendants shall consecutively number exhibits from x000 to x999, substituting “x” for each Defendant’s assigned case identifier (e.g. Defendant 3 would number exhibits from 3000 to 3999, etc.). Exhibits shall be pre-marked for identification before trial commences.

1 **11. Witness Lists.** On May 17, 2022, after conferring with counsel at the
2 pretrial conference, each party shall file and serve a list of witnesses that
3 party intends to call to testify at trial. **The witness list must identify the**
4 **existence, but need not include the name, of any confidential informant**
5 **(CI) the United States intends to call to testify.** Parties shall email copies
6 of their witness list to the Court at DimkeOrders@waed.uscourts.gov.

7 **12. Trial Briefs, Proposed Jury Instructions and Verdict Form, and**
8 **Requested Voir Dire.** On May 13, 2022, after conferring with counsel at
9 the pretrial conference, each party shall file a trial brief, proposed jury
10 instructions and verdict form, and requested voir dire, in accordance with the
11 requirements below. Each party shall email copies to the Court at
12 DimkeOrders@waed.uscourts.gov.

13 **A. Trial Briefs.** Trial briefs shall not exceed twenty (20) pages
14 without prior Court approval, upon motion and good cause
15 shown.

16 **B. Proposed Jury Instructions and Verdict Form.** Jury
17 instructions shall 1) address issues that are unique to the case,
18 and 2) include instructions regarding the elements of each
19 charge or defense. If a Ninth Circuit Model Jury Instruction
20 exists for a particular charge or defense, the parties shall

1 provide the model instruction or shall submit argument as to
2 why the instruction is inadequate or no longer supported by
3 law. Proposed jury instructions shall be accompanied by a
4 proposed verdict form. **The parties must confer to develop**
5 **joint proposed jury instructions and the verdict form.** The
6 Court will only accept an individual party's proposed jury
7 instructions on those points/issues upon which the parties could
8 not agree, and only if the party's memoranda accompanying the
9 individually-proposed instruction(s) sets forth the legal
10 authority and justification for why the instruction is necessary.

11 **C. *Requested Voir Dire.*** The parties may request that the Court
12 include specific questions during the Court's standard voir dire.
13 Requested voir dire shall not duplicate information elicited in
14 the Clerk's Office Jury Questionnaire ("COJQ") and the
15 Court's Criminal Jury Trial Procedures Letter.

16 **13. Exhibit Binders.** On May 17, 2022, after conferring with counsel at
17 the pretrial conference, each party must provide to all other parties and to the
18 Court a Bates-stamped copy of all trial exhibits — or, in the case of physical
19 exhibits, a photograph or other reproduction of the exhibit — the party
20

1 intends to introduce at trial. All trial exhibits shall be organized sequentially
2 by exhibit number in a three-ring binder.

3 **14. JERS.**

4 **A.** The Court utilizes the Jury Evidence Recording System (JERS),
5 a system that makes electronic evidence available in the jury
6 room during deliberations. **Counsel shall promptly consult**
7 **the Court’s “JERS Instructions for Attorneys”⁴ to ensure**
8 **they acquire, retain, and provide evidence to the Court in**
9 **the necessary format.**

10 **B.** On **May 17, 2022**, after conferring with counsel at the pretrial
11 conference, each party who intends to introduce evidence at
12 trial must supply a CD, DVD, or USB drive to the Courtroom
13 Deputy containing all of that party’s exhibits in the required
14 format. Counsel may contact the Courtroom Deputy at (509)
15 458-5252 with any questions.

18 ⁴ This document can be found on the Court’s public website at the following link:
19 [https://www.waed.uscourts.gov/sites/default/files/support/jers_basics_for_lawyers.](https://www.waed.uscourts.gov/sites/default/files/support/jers_basics_for_lawyers.pdf)
20 [pdf](https://www.waed.uscourts.gov/sites/default/files/support/jers_basics_for_lawyers.pdf)

15. Trial Notices. On **May 13, 2022**, after conferring with counsel at the pretrial conference, each party shall file a notice that indicates the amount of time requested for opening statement and for voir dire. In addition, defense counsel must indicate if his/her client waives presence at sidebar and jury questions.

16. Technology Readiness Meeting. On **May 17, 2022**, any party seeking to offer video or audio evidence at trial must meet with Court staff at the location of the trial to verify compatibility with the Court's presentation systems. The parties shall contact the Courtroom Deputy at (509) 458-5252 to arrange this meeting.

17. Trial. The jury trial is **SET** for **May 23, 2022**, at **9:00 AM** in **Richland, Washington**. The **final pretrial conference** will commence at **8:30 AM** on the first day of trial.

18. Summary of Deadlines

All pretrial motions, including discovery motions, <i>Daubert</i> motions, and motions <i>in limine</i>, filed	March 31, 2022
Responses to pretrial motions	April 14, 2022
Replies to pretrial motions	April 22, 2022
PRETRIAL CONFERENCE <i>Deadline for motions to continue trial</i>	MAY 5, 2022 1:30 PM - RICHLAND
CIs' identities and willingness to be interviewed disclosed to Defendant (if applicable)	May 9, 2022

Grand jury transcripts produced to Defendant Case Agent: CIs: Other Witnesses:	May 9, 2022 May 9, 2022 May 9, 2022
Exhibit lists filed and emailed to the Court	May 17, 2022
Witness lists filed and emailed to the Court	May 17, 2022
Trial briefs, jury instructions, verdict forms, and requested voir dire filed and emailed to the Court	May 13, 2022
Exhibit binders delivered to all parties and to the Court	May 17, 2022
Delivery of JERS-compatible digital evidence files to the Courtroom Deputy	May 17, 2022
Trial notices filed with the Court	May 13, 2022
Technology readiness meeting (in-person)	May 17, 2022
FINAL PRETRIAL CONFERENCE	May 23, 2022
JURY TRIAL	May 23, 2022 9:00 AM - RICHLAND

IT IS SO ORDERED. The Clerk's Office is directed to enter this Order and provide copies to all counsel, the U.S. Probation Office, and the U.S. Marshals Service.

DATED March 17, 2022.

s/Mary K. Dimke
MARY K. DIMKE
UNITED STATES DISTRICT JUDGE